

§ 579.2

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a repeated or willful violation of section 15(a)(2), to be paid to the Secretary.

(5) Any administrative determination by the Secretary of the amount of any penalty under this subsection shall be final, unless within fifteen days after receipt of notice thereof by certified mail the person charged with the violation takes exception to the determination that the violations for which the penalty is imposed occurred, in which event final determination of the penalty shall be made in an administrative proceeding after opportunity for hearing in accordance with section 554 of title 5, United States Code, and regulations to be promulgated by the Secretary.

(6) Except for civil penalties collected for violations of section 12, sums collected as penalties pursuant to this section shall be applied toward reimbursement of the costs of determining the violations and assessing and collecting such penalties, in accordance with the provision of section 2 of an Act entitled "An Act to authorize the Department of Labor to make special statistical studies upon payment of the cost thereof, and for other purposes" (29 U.S.C. 9a).

(7) Civil penalties collected for violations of section 12 shall be deposited in the general fund of the Treasury.

(b) The Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101-410), as amended by the Debt Collection Improvement Act of 1996 (Pub. L. 104-134, section 31001(s)), requires that Federal agencies periodically adjust their civil money penalties for inflation according to a specified cost-of-living formula. This law requires each agency to make an initial inflationary adjustment for all covered civil money penalties, and to make further inflationary adjustments at least once every four years thereafter. Any increase in the civil money penalty amount will apply only to violations that occur after the date the increase takes effect.

(c) This part provides for the issuance of the notice of civil penalty for any violation of section 12 of the Act relating to child labor or any regulation issued under that section; describes the violations for which a penalty may be imposed and the factors to be considered by the Secretary of Labor or the Secretary's designated representative in assessing the amount of such a penalty; outlines the procedure for an exception to the determination that the violations occurred which may be filed by the person so charged;

and summarizes the methods provided for collection and recovery of the penalty.

[40 FR 25792, June 18, 1975, as amended at 56 FR 8679, Feb. 28, 1991; 66 FR 63503, Dec. 7, 2001]

§ 579.2 Definitions.

As used in this part and part 580 of this chapter:

Act means the Fair Labor Standards Act of 1938, as amended (52 Stat. 1060, as amended; 29 U.S.C. 201, *et seq.*);

Administrative law judge means a person appointed as provided in 5 U.S.C. 3105 and subpart B of part 930 of title 5 of the CFR, and qualified to preside at hearings under 5 U.S.C. 554-557.

Administrator means the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, and includes an authorized representative designated by the Administrator to perform any of the functions of the Administrator under this part and part 580 of this chapter.

Agency has the meaning given it by 5 U.S.C. 551.

Chief Administrative Law Judge means the Chief Administrative Law Judge, Office of Administrative Law Judges, U.S. Department of Labor, 800 K Street, NW., Suite 400, Washington, DC 20001-8002.

Department means the U.S. Department of Labor.

Person includes any individual, partnership, corporation, association, business trust, legal representative, or organized group of persons.

Secretary means the Secretary of Labor, U.S. Department of Labor, or an authorized representative of the Secretary.

Solicitor of Labor means the Solicitor, U.S. Department of Labor, and includes attorneys designated by the Solicitor to perform functions of the Solicitor under this part and part 780 of this chapter.

[40 FR 25792, June 18, 1975, as amended at 40 FR 53237, Nov. 17, 1975; 56 FR 54708, Oct. 22, 1991]

§ 579.3 Violations for which penalty may be imposed.

(a) *What constitutes the violation.* Each of the following constitutes a violation